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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/581,989

02/26/2007

Thomas Gross

1717552

1863

24240 7590 09/14/2010

CHAPMAN AND CUTLER  
111 WEST MONROE STREET  
CHICAGO, IL 60603

EXAMINER

BERRY, WILLIE WENDELL JR

ART UNIT

PAPER NUMBER

3652

MAIL DATE

DELIVERY MODE

09/14/2010

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/581,989	<b>Applicant(s)</b> GROSS, THOMAS	
	<b>Examiner</b> WILLIE BERRY	<b>Art Unit</b> 3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 18 June 2010.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-10, 12, 14, 16, 17, 19 and 20 is/are rejected.
- 7) ☒ Claim(s) 4, 11, 13, 15 and 18 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 June 2010 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)                        | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 5-10, 12, 14, 16, 17, 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over patent no. 2,507,341 to Lee.

Regarding claim 1, the recited method steps for haulage of subsurface-mined material using at least two similar vehicles are considered to obvious to Lee, since Lee discloses all of the claimed structural limitations in the claims comprising: moving said at least two similar vehicles in the a roadway section between a heading face and a continuously extended haulage means (col. 1, lines 1-11), and conducting at least one material transfer from a first of said similar vehicles to a second of said similar vehicles between the heading face and a transfer of the material to the haulage means (col. 1, lines 1-11).

Regarding claim 2, Lee discloses an adjustable conveying device (24 and col. 5, lines 22-43).

Regarding claim 3, Lee discloses an articulated axis (36).

Regarding claim 5, Lee discloses a linear conveying device in the form of a sled (not numbered, but shown in fig. 1).

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Regarding claim 6, Lee discloses a conveying means (25).

Regarding claim 7, Lee discloses a retractable conveying device (24 and col. 5, lines 5-21).

Regarding claim 8, Lee discloses linear conveying devices that are belts (col. 3, lines 42-52).

Regarding claim 9, Lee discloses a sled (25).

Regarding claim 10, Lee discloses a retractable linear conveying device (24 and col. 5, lines 5-21) and conveying means (25).

Regarding claim 12, Lee discloses a linear conveying device in the form of a sled (not numbered, but shown in fig. 1).

Regarding claim 14, Lee discloses a conveying means (25).

Regarding claim 16, Lee discloses a conveying means (25).

Regarding claim 17, Lee discloses a retractable conveying device (24 and col. 5, lines 5-21).

Regarding claim 19, Lee discloses a retractable conveying device (24 and col. 5, lines 5-21).

Regarding claim 20, Lee discloses a retractable conveying device (24 and col. 5, lines 5-21).

***Allowable Subject Matter***

Claims 4, 11, 13, 15 and 18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to WILLIE BERRY whose telephone number is (571)272-6191. The examiner can normally be reached on Mon-Fri, 11:30-8pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saul Rodriguez can be reached on (571)272-7097. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Saúl J. Rodríguez/  
Supervisory Patent Examiner, Art  
Unit 3652

Wbj.